

STATE OF U.P.  
v.  
SHER SINGH AND ORS.

DECEMBER 17, 1996

[K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

*Urban Land (Ceiling & Regulation) Act, 1976 : Section 6(1) Holder of urban vacant land—Declaration filed under Section 6—Competent authority observing that declarant was holding land in excess of ceiling—Appeal preferred before District Judge—Declarant dying during pendency of appeal—Matter remitted to competent authority—Writ preferred by State against remand order dismissed by High Court—Appeal—Held the crucial date is the date of declaration filed under Section 6(1) before the competent authority—After the demise of landowner the question of intestate or the testamentary succession does not arise—The District Judge, therefore, was not right in remanding the matter for fresh consideration and computation.*

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1350 of 1986.

From the Judgment and Order dated 10.8.84 of the Allahabad High Court in C.M.W.P. No. 2589 of 1982.

R.C. Verma for R.B. Mishra for the Appellant.

The following Order of the Court was delivered:

This appeal by special leave arises from the judgment of the learned single Judge of the Allahabad High Court, made on August 10, 1984 dismissing Writ Petition No. 2589/82. The admitted position is Ram Het had filed a suit for declaration under Section 6 of the Urban Land (Ceiling & Regulation) Act, 1976. The competent authority prepared the draft statement and issued the notice and after-hearing the objections observed that the declarant was in possession of 1146.0430 sq. mts. of land in excess of the ceiling prescribed. Thereon, an appeal was filed before the District Judge, Pending disposal of the appeal, the declarant died. The District Judge remitted the matter for fresh consideration to the competent authority. Again the competent authority by its order dated August 17, 1981

A determined the excess vacant land as 1146.0430 sq. mts. The respondents again filed an appeal before the District Judge who remitted the matter to the competent authority. Against the remand order, the Government filed writ petition which was dismissed. thus, this appeal. It is contended that the only question that requires to be decided is: whether the legal representatives can claim proportionate shares, after the demise of the declarant? The High Court has given a finding that the appropriate date, on which the entitlement has to be considered, is the date on which the declaration under Section 6 was filed and on that date Ram Het was the owner and had filed the declaration in his capacity as holder of the vacant urban land. Under these circumstances, after the demise of the declarant, the question would be: whether the legal representatives of the holder of the urban vacant land could claim any deduction on the basis of their interstate or testamentary succession? The crucial date is the date of the declaration filed under Section 6(1) before the competent authority. When the declaration under Section 6(1) was filed, Ram Het was the holder of the urban vacant land and he accordingly filed the declaration. After the demise, the question of intestate or the testamentary succession does not arise. The District Judge, therefore, was not right in remanding the matter again for fresh consideration and computation. Thus, the High Court is not correct in not interfering with the appellate order though it found that it made a little difference.

E Under these circumstances, the appeal is allowed. The order of the High Court stands set aside and the writ petition is allowed. The order of the appellate authority stands quashed and that of the competent authority stands upheld. No costs.

F T.N.A.

Appeal allowed.